

off the top of Iraqi oil sales for administrative costs or the billions that were stolen from the Iraqi people through corruption and mismanagement. But the 10 percent withholding worked in the past when the 103rd Congress used it to compel the United Nations to create an inspector general. And I believe it can work again.

But we have to make an important choice first. We can do nothing and allow the word "humanitarianism" to be the new code word for corruption scandal from here on out. Or we can stand up and make the United Nations rightfully accountable for the corruption that harmed innocent Iraqis. The answer is clear. We must act.

The U.N. is broken. This scandal revealed that the U.N. Security Council is unable to do its job when some members are more interested in lining their pockets than preserving security. I contend that there was no way that the U.S. could get France and Russia to enforce Security Council resolutions on Iraq and go to war when so many of their politically connected individuals, companies, and institutions received Iraqi oil contracts. Victory brought their corruption to light. And I am deeply worried that the ability of the United Nations to convey "legitimacy" to the new Iraqi government and assist in postwar Iraq is hampered by its history of corruption and mismanagement in the Oil-for-Food program.

The U.N. needs to come clean and start over. The first step toward doing that is to accept the terms and conditions of the Oil-for-Food Accountability Act.

#### SUBMITTED RESOLUTIONS

#### SENATE RESOLUTION 352—URGING THE GOVERNMENT OF UKRAINE TO ENSURE A DEMOCRATIC, TRANSPARENT, AND FAIR ELECTION PROCESS FOR THE PRESIDENTIAL ELECTION ON OCTOBER 31, 2004

Mr. CAMPBELL (for himself, Mr. DODD, and Mr. BIDEN) submitted the following resolution; which was referred to the Committee on Foreign Relations:

##### S. RES. 352

Whereas the establishment of a democratic, transparent, and fair election process for the 2004 presidential election in Ukraine and of a genuinely democratic political system are prerequisites for that country's full integration into the Western community of nations as an equal member, including into organizations such as the North Atlantic Treaty Organization (NATO);

Whereas the Government of Ukraine has accepted numerous specific commitments governing the conduct of elections as a participating State of the Organization for Security and Cooperation in Europe (OSCE), including provisions of the Copenhagen Document;

Whereas the election on October 31, 2004, of Ukraine's next president will provide an unambiguous test of the extent of the Ukrainian authorities' commitment to implement

these standards and build a democratic society based on free elections and the rule of law;

Whereas this election takes place against the backdrop of previous elections that did not fully meet international standards and of disturbing trends in the current pre-election environment;

Whereas it is the duty of government and public authorities at all levels to act in a manner consistent with all laws and regulations governing election procedures and to ensure free and fair elections throughout the entire country, including preventing activities aimed at undermining the free exercise of political rights;

Whereas a genuinely free and fair election requires a period of political campaigning conducted in an environment in which neither administrative action nor violence, intimidation, or detention hinder the parties, political associations, and the candidates from presenting their views and qualifications to the citizenry, including organizing supporters, conducting public meetings and events throughout the country, and enjoying unimpeded access to television, radio, print, and Internet media on a non-discriminatory basis;

Whereas a genuinely free and fair election requires that citizens be guaranteed the right and effective opportunity to exercise their civil and political rights, including the right to vote and the right to seek and acquire information upon which to make an informed vote, free from intimidation, undue influence, attempts at vote buying, threats of political retribution, or other forms of coercion by national or local authorities or others;

Whereas a genuinely free and fair election requires government and public authorities to ensure that candidates and political parties enjoy equal treatment before the law and that government resources are not employed to the advantage of individual candidates or political parties;

Whereas a genuinely free and fair election requires the full transparency of laws and regulations governing elections, multiparty representation on election commissions, and unobstructed access by candidates, political parties, and domestic and international observers to all election procedures, including voting and vote-counting in all areas of the country;

Whereas increasing control and manipulation of the media by national and local officials and others acting at their behest raise grave concerns regarding the commitment of the Ukrainian authorities to free and fair elections;

Whereas efforts by the national authorities to limit access to international broadcasting, including Radio Liberty and the Voice of America, represent an unacceptable infringement on the right of the Ukrainian people to independent information;

Whereas efforts by national and local officials and others acting at their behest to impose obstacles to free assembly, free speech, and a free and fair political campaign have taken place in Donetsk, Sumy, and elsewhere in Ukraine without condemnation or remedial action by the Ukrainian Government;

Whereas numerous substantial irregularities have taken place in recent Ukrainian parliamentary by-elections in the Donetsk region and in mayoral elections in Mukacheve, Romny, and Krasnyi Luch; and

Whereas the intimidation and violence during the April 18, 2004, mayoral election in Mukacheve, Ukraine, represent a deliberate attack on the democratic process: Now, therefore, be it

*Resolved*, That the Senate—

(1) acknowledges and welcomes the strong relationship formed between the United States and Ukraine since the restoration of Ukraine's independence in 1991;

(2) recognizes that a precondition for the full integration of Ukraine into the Western community of nations, including as an equal member in institutions such as the North Atlantic Treaty Organization (NATO), is its establishment of a genuinely democratic political system;

(3) expresses its strong and continuing support for the efforts of the Ukrainian people to establish a full democracy, the rule of law, and respect for human rights in Ukraine;

(4) urges the Government of Ukraine to guarantee freedom of association and assembly, including the right of candidates, members of political parties, and others to freely assemble, to organize and conduct public events, and to exercise these and other rights free from intimidation or harassment by local or national officials or others acting at their behest;

(5) urges the Government of Ukraine to meet its Organization for Security and Cooperation in Europe (OSCE) commitments on democratic elections and to address issues previously identified by the Office of Democratic Institutions and Human Rights (ODIHR) of the OSCE in its final reports on the 2002 parliamentary elections and the 1999 presidential elections, such as illegal interference by public authorities in the campaign and a high degree of bias in the media;

(6) urges the Ukrainian authorities to ensure—

(A) the full transparency of election procedures before, during, and after the 2004 presidential elections;

(B) free access for Ukrainian and international election observers;

(C) multiparty representation on all election commissions;

(D) unimpeded access by all parties and candidates to print, radio, television, and Internet media on a non-discriminatory basis;

(E) freedom of candidates, members of opposition parties, and independent media organizations from intimidation or harassment by government officials at all levels via selective tax audits and other regulatory procedures, and in the case of media, license revocations and libel suits, among other measures;

(F) a transparent process for complaint and appeals through electoral commissions and within the court system that provides timely and effective remedies; and

(G) vigorous prosecution of any individual or organization responsible for violations of election laws or regulations, including the application of appropriate administrative or criminal penalties;

(7) further calls upon the Government of Ukraine to guarantee election monitors from the ODIHR, other participating States of the OSCE, Ukrainian political parties, candidates' representatives, nongovernmental organizations, and other private institutions and organizations, both foreign and domestic, unobstructed access to all aspects of the election process, including unimpeded access to public campaign events, candidates, news media, voting, and post-election tabulation of results and processing of election challenges and complaints; and

(8) pledges its enduring support and assistance to the Ukrainian people's establishment of a fully free and open democratic system, their creation of a prosperous free market economy, their establishment of a secure independence and freedom from coercion, and their country's assumption of its rightful place as a full and equal member of the Western community of democracies.

Mr. CAMPBELL. Mr. President, as Co-Chairman of the Helsinki Commission, I submit today a resolution urging the Government of Ukraine to ensure a democratic, transparent and fair election process for the presidential elections scheduled to be held in late October. An identical resolution is being submitted by Chairman of the House International Relations Committee HENRY HYDE and my colleague and Chairman of the Helsinki Commission, Representative CHRIS SMITH. I am pleased to note that the Commission's Ranking Member, Mr. DODD, and the Ranking Member of the Committee on Foreign Relations, Mr. BIDEN, are original cosponsors of the resolution.

The Helsinki Commission, which has long monitored and encouraged human rights, rule of law and democracy in Ukraine, continues to be a stalwart supporter of Ukraine's development as an independent, democratic and market-oriented state. There is a genuine desire in the United States for Ukraine to succeed in this process and for the long-suffering Ukrainian people to fully realize their dreams and aspirations. This resolution, by encouraging fair, open and transparent elections, is a concrete expression of the commitment of the U.S. Congress to the Ukrainian people.

The resolution underscores that an election process and the establishment of a genuinely democratic political system consistent with Ukraine's freely-undertaken OSCE commitments is a prerequisite for Ukraine's full integration into the Western community of nations as an equal member, including into NATO. The October elections will be vital in determining Ukraine's course for years to come and they present the Ukrainian authorities with a real opportunity to demonstrate their commitment to OSCE principles and values.

Unfortunately, Ukraine's pre-election environment has already been decidedly problematic and of increasing concern to the United States and the international community. During the course of this year I have shared specific concerns with Senate colleagues, particularly in terms of the media. The resolution submitted today focuses squarely on key problem areas, including increasing control and manipulation of the media and attempts by national authorities to limit access to international broadcasting, including Radio Liberty and Voice of America. Among other concerns are the blatant obstacles to free assembly and a free and fair political campaign as well as substantial irregularities in several recent elections.

An egregious example of how not to conduct elections was the mayoral election held two weeks ago in the western Ukrainian city of Mukacheve. This election was marred by intimidation, violence, fraud and manipulation of the vote count, electoral disruptions and irregularities. Despite strong evidence indicating that a candidate from

the democratic opposition "Our Ukraine" bloc had won, the territorial elections commission announced as winner the candidate of a party led by the head of Presidential Administration, Viktor Medvedchuk. That some of the abuses and violence took place in front of OSCE observers, and that some of the victims of violence were members of the Ukrainian parliament, only underscores the brazenness of these actions. The outlandish conduct of the Mukacheve elections not only casts doubt over their outcome, but when coupled with other recent problematic elections, including in Constituency No. 61 in Donetsk, could be a barometer for the October presidential elections.

The resolution I submit today outlines those measures the Ukrainian authorities need to take—consistent with their own laws and international agreements—for a free, fair, open and transparent election process. The Ukrainian authorities at all levels, including the executive, legislative and judicial branches, need to ensure an election process that enables all of the candidates to compete on a level playing field. This includes the various institutions and agencies involved directly or indirectly in the elections process, such as the Central Election Commission, the Ministry of Internal Affairs, Procuracy, the State Security Service (SBU), Tax Administration, as well as the Constitutional and Supreme Courts.

Ukraine's October presidential elections should be a watershed for the future direction of that country of great potential. It is abundantly clear that a small clique have a vested interest in perpetuating the outmoded status quo. Ukrainian authorities need to radically improve the election environment if there is to be hope for these elections to meet OSCE standards. The question is whether their perceived self-interest will trump the interest of the people of Ukraine. Having restored the independence of their proud land, the Ukrainian people deserve an opportunity to overcome the legacy of the past, and consolidate democracy, human rights and the rule of law.

#### AMENDMENTS SUBMITTED AND PROPOSED

SA 3117. Mr. BREAUX (for himself and Mrs. FEINSTEIN) proposed an amendment to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes.

SA 3118. Mr. ALLARD (for himself, Mr. SCHUMER, Mr. MILLER, Mrs. CLINTON, Mr. CHAMBLISS, and Mr. CORZINE) submitted an amendment intended to be proposed by him to the bill S. 1637, *supra*; which was ordered to lie on the table.

#### TEXT OF AMENDMENTS

**SA 3117.** Mr. BREAUX (for himself and Mrs. FEINSTEIN) proposed an amendment to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; as follows:

On page 88, between lines 17 and 18, insert:

"(4) DOLLAR LIMITATION.—

"(A) IN GENERAL.—Notwithstanding paragraph (1), the excess qualified foreign distribution amount shall not exceed the lesser of—

"(i) the amount shown on the applicable financial statement as earnings permanently reinvested outside the United States, or

"(ii) the excess (if any) of—

"(I) the estimated aggregate qualified expenditures of the corporation for taxable years ending in 2005, 2006, and 2007, over

"(II) the aggregate qualified expenditures of the corporation for taxable years ending in 2001, 2002, and 2003.

"(B) EARNINGS PERMANENTLY REINVESTED OUTSIDE THE UNITED STATES.—

"(i) IN GENERAL.—If an amount on an applicable financial statement is shown as Federal income taxes not required to be reserved by reason of the permanent reinvestment of earnings outside the United States, subparagraph (A)(i) shall be applied by reference to the earnings to which such taxes relate.

"(ii) NO STATEMENT OR STATED AMOUNT.—If there is no applicable financial statement or such a statement fails to show a specific amount described in subparagraph (A)(i) or clause (i), such amount shall be treated as being zero.

"(iii) APPLICABLE FINANCIAL STATEMENT.—For purposes of this paragraph, the term 'applicable financial statement' means the most recently audited financial statement (including notes and other documents which accompany such statement)—

"(I) which is certified on or before March 31, 2004, as being prepared in accordance with generally accepted accounting principles, and

"(II) which is used for the purposes of a statement or report to creditors, to shareholders, or for any other substantial nontax purpose.

In the case of a corporation required to file a financial statement with the Securities and Exchange Commission, such term means the most recent such statement filed on or before March 31, 2004.

"(C) QUALIFIED EXPENDITURES.—For purposes of this paragraph, the term 'qualified expenditures' means—

"(i) wages (as defined in section 3121(a)),

"(ii) additions to capital accounts for property located within the United States (including any amount which would be so added but for a provision of this title providing for the expensing of such amount),

"(iii) qualified research expenses (as defined in section 41(b)) and basic research payments (as defined in section 41(e)(2)), and

"(iv) irrevocable contributions to a qualified employer plan (as defined in section 72(p)(4)) but only if no deduction is allowed under this chapter with respect to such contributions.

"(D) RECAPTURE.—If the taxpayer's estimate of qualified expenditures under subparagraph (A)(ii)(I) is greater than the actual expenditures, then the tax imposed by this chapter for the taxpayer's last taxable